

HOUSE BILL NO. 466

INTRODUCED BY A. NOONAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WORKERS' COMPENSATION INDEMNITY BENEFITS; INCREASING THE WEEKS FOR CALCULATION OF PERMANENT PARTIAL DISABILITY AWARDS; PROVIDING IMPAIRMENT RATINGS FOR WAGE LOSSES OF 30 PERCENT FOR AN ACTUAL WAGE LOSS OF \$4 OR MORE AN HOUR AND 40 PERCENT FOR AN ACTUAL WAGE LOSS OF \$6 OR MORE AN HOUR; INCREASING THE IMPAIRMENT RATING PERCENTAGES FOR AN INJURED WORKER RETURNING TO WORK; INCREASING THE WEEKLY BENEFIT RATE FOR PERMANENT PARTIAL DISABILITY TO 85 PERCENT OF WAGES RECEIVED AT THE TIME OF INJURY, NOT TO EXCEED 75 PERCENT OF THE STATE'S AVERAGE WEEKLY WAGE; AMENDING SECTION 39-71-703, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-703, MCA, is amended to read:

"39-71-703. Compensation for permanent partial disability. (1) If an injured worker suffers a permanent partial disability and is no longer entitled to temporary total or permanent total disability benefits, the worker is entitled to a permanent partial disability award if that worker:

(a) has an actual wage loss as a result of the injury; and

(b) has a permanent impairment rating that:

(i) is not based exclusively on complaints of pain;

(ii) is established by objective medical findings; and

(iii) is more than zero as determined by the latest edition of the American medical association Guides to the Evaluation of Permanent Impairment.

(2) When a worker receives an impairment rating as the result of a compensable injury and has no actual wage loss as a result of the injury, the worker is eligible for an impairment award only.

(3) Beginning July 1, ~~2003~~ 2005, the permanent partial disability award must be arrived at by multiplying the percentage arrived at through the calculation provided in subsection (5) by ~~375~~ 400 weeks.

(4) A permanent partial disability award granted an injured worker may not exceed a permanent partial

1 disability rating of 100%.

2 (5) The percentage to be used in subsection (4) must be determined by adding all of the following
3 applicable percentages to the impairment rating:

4 (a) if the claimant is 40 years of age or younger at the time of injury, 0%; if the claimant is over 40 years
5 of age at the time of injury, 1%;

6 (b) for a worker who has completed less than 12 years of education, 1%; for a worker who has
7 completed 12 years or more of education or who has received a graduate equivalency diploma, 0%;

8 (c) if a worker has no actual wage loss as a result of the industrial injury, 0%; if a worker has an actual
9 wage loss of \$2 or less an hour as a result of the industrial injury, 10%; if a worker has an actual wage loss of
10 more than \$2 an hour but less than \$4 an hour as a result of the industrial injury, 20%; if a worker has an actual
11 wage loss of \$4 or more an hour but less than \$6 an hour as a result of the industrial injury, 30%; if a worker has
12 an actual wage loss of \$6 or more an hour as a result of the industrial injury, 40%. Wage loss benefits must be
13 based on the difference between the actual wages received at the time of injury and the wages that the worker
14 earns or is qualified to earn after the worker reaches maximum healing.

15 (d) if a worker, at the time of the injury, was performing heavy labor activity and after the injury the
16 worker can perform only light or sedentary labor activity, ~~5%~~ 20%; if a worker, at the time of injury, was
17 performing heavy labor activity and after the injury the worker can perform only medium labor activity, ~~3%~~ 15%;
18 if a worker was performing medium labor activity at the time of the injury and after the injury the worker can
19 perform only light or sedentary labor activity, ~~2%~~ 10%.

20 (6) The weekly benefit rate for permanent partial disability is ~~66-2/3%~~ 85% of the wages received at the
21 time of injury, but the rate may not exceed ~~one-half~~ 75% of the state's average weekly wage. The weekly benefit
22 amount established for an injured worker may not be changed by a subsequent adjustment in the state's average
23 weekly wage for future fiscal years.

24 (7) If a worker suffers a subsequent compensable injury or injuries to the same part of the body, the
25 award payable for the subsequent injury may not duplicate any amounts paid for the previous injury or injuries.

26 (8) If a worker is eligible for a rehabilitation plan, permanent partial disability benefits payable under this
27 section must be calculated based on the wages that the worker earns or would be qualified to earn following the
28 completion of the rehabilitation plan.

29 (9) As used in this section:

30 (a) "heavy labor activity" means the ability to lift over 50 pounds occasionally or up to 50 pounds

1 frequently;

2 (b) "medium labor activity" means the ability to lift up to 50 pounds occasionally or up to 25 pounds
3 frequently;

4 (c) "light labor activity" means the ability to lift up to 20 pounds occasionally or up to 10 pounds
5 frequently; and

6 (d) "sedentary labor activity" means the ability to lift up to 10 pounds occasionally or up to 5 pounds
7 frequently."

8

9 NEW SECTION. **Section 2. Effective date -- applicability.** [This act] is effective July 1, 2005, and
10 applies to injuries or diseases occurring on or after July 1, 2005.

11 - END -